

APPEAL NO. 041066
FILED JUNE 18, 2004

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on April 5, 2004. The hearing officer decided that the appellant (claimant) is not entitled to supplemental income benefits (SIBs) for the ninth quarter. The claimant appeals this determination on sufficiency of the evidence grounds. The respondent (self-insured) urges affirmance.

DECISION

Affirmed.

The hearing officer did not err in determining that the claimant is not entitled to ninth quarter SIBs. Section 408.142 and Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 130.102 (Rule 130.102) establish the requirements for entitlement to SIBs. At issue was whether the claimant had no ability to work during the ninth quarter qualifying period, thereby satisfying the good faith requirements of Section 408.142(a)(4) and Rule 130.102(d)(4). It was for the hearing officer, as the trier of fact, to resolve the conflicts and inconsistencies in the evidence and to determine what facts had been established. Garza v. Commercial Insurance Company of Newark, New Jersey, 508 S.W.2d 701 (Tex. Civ. App.-Amarillo 1974, no writ). We have said that medical evidence from the qualifying period is clearly relevant but other medical evidence from outside the period, especially that which is relatively close to the qualifying period, may be relevant to the condition of the claimant during that period and may be considered. See Texas Workers' Compensation Commission Appeal No. 960880, decided June 18, 1996. Additionally, we have said that entitlement to each quarter of SIBs stands on its own and that "previous results in favor of either party do not ensure continuance of that result" Texas Workers' Compensation Commission Appeal No. 011954, decided September 25, 2001. In view of the applicable law and the evidence presented, we cannot conclude that the hearing officer's determination is so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

The decision and order of the hearing officer are affirmed.

The true corporate name of the insurance carrier is **(a certified self-insured)** and the name and address of its registered agent for service of process is

**NO
(ADDRESS)
(CITY), TEXAS (ZIP CODE).**

Edward Vilano
Appeals Judge

CONCUR:

Daniel R. Barry
Appeals Judge

Thomas A. Knapp
Appeals Judge